

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BEVERLY WILSON,)
Plaintiff,)
)
vs.) 1:07-cv-1598-LJM-WTL
)
TOM HUNTER, *et al.*,)
Defendants.)

ORDER

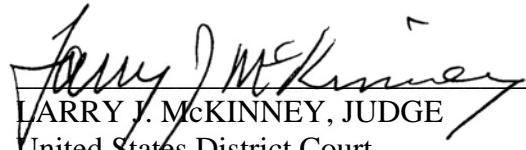
This cause is now before the Court on defendants', Tom Hunter, Dennis Goldberg, and the Greensburg Community School Corporation (the "School Corporation") (all defendants, collectively, "Defendants"), Motion to Dismiss. Plaintiff, Beverly Wilson ("Plaintiff"), alleges that the School Corporation violated the Due Process Clause of the Fourteenth Amendment to the United States Constitution when it attempted to reduce her wages in order to recover what the School Corporation regards as certain overpayments to her. Plaintiff contends that this procedure would have subjected her to garnishment without due process.

The Court agrees with the School Corporation and finds that the existence of adequate state law remedies, such as a breach of contract action, requires the dismissal of this case. *See Parratt v. Taylor*, 451 U.S. 527 (1981). Moreover, this very issue was addressed in *Lillehaug v. Sioux Falls*, 788 F.2d 1349 (8th Cir. 1986). That case involved the attempt to recoup alleged overpayment to an employee by the City of Sioux Falls. *Id.* at 1350. The Eighth Circuit found that a state law breach of contract action was available to the plaintiff as a remedy should the City be incorrect in its position. *Id.* at 1352. The *Lillehaug* court also rejected the allegation that the recoupment was in

any way a garnishment action. *Id.* Although *Lillehaug* is an Eighth Circuit case, the reasoning is persuasive and convinces this Court that dismissal is the appropriate end to this action.

For these reasons, Defendants' Motion to Dismiss is **GRANTED**.

IT IS SO ORDERED this 31st day of January, 2008.



LARRY J. McKINNEY, JUDGE
United States District Court
Southern District of Indiana

Distributed to:

James D. Masur II
ROBERT W. YORK & ASSOCIATES
jmasur@york-law.com

William T. Hopkins Jr.
BARNES & THORNBURG
tuck.hopkins@btlaw.com

Mark D. Scudder
BARNES & THORNBURG
mark.scudder@btlaw.com

Thomas E. Wheeler II
LOCKE REYNOLDS LLP
twheeler@locke.com